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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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John H. Chafee Coastal Barrier Resources System; Lee County, FL, and Newport County, RI; Availability of Draft Maps and Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of two John H. Chafee Coastal Barrier Resources System (CBRS) draft revised maps for public review and comment. The first map, dated January 10, 2012, is for two CBRS units located in Lee County, Florida. The second map, dated September 30, 2009, is for four CBRS units located in Newport County, Rhode Island.

DATES: To ensure consideration, we must receive your written comments by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Mail or hand-deliver (during normal business hours) comments to Katie Niemi, Coastal Barriers Coordinator, Division of Habitat and Resource Conservation, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 860A, Arlington, VA 22203, or send comments by electronic mail (e-mail) to *CBRAcomments@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Katie Niemi, Coastal Barriers Coordinator, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

Coastal barriers are typically elongated, narrow landforms located at the interface of land and sea. Coastal barriers provide important habitat for fish and wildlife and serve as the mainland's first line of defense against the impacts of severe storms. With the passage of the Coastal Barrier Resources Act (CBRA) in 1982 (Pub. L. 97–348), Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on coastal barriers and have resulted in the loss of valuable natural resources; threats to human life, health, and property; and the expenditure of millions of tax dollars to build structures and infrastructure and then rebuild them again after damaging storms. The CBRA established the CBRS, a defined set of 186 geographic units, encompassing approximately 453,000 acres, of undeveloped

lands and associated aquatic habitat along the Atlantic and Gulf of Mexico coasts. Most new Federal expenditures and financial assistance that have the effect of encouraging development are prohibited within the CBRS. Development can still occur within the CBRS provided that private developers or other non-Federal parties bear the full cost instead of the American taxpayers. The CBRS was expanded by the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591) to include additional areas along the Atlantic and Gulf of Mexico coasts as well as areas along the Great Lakes, Puerto Rico, and the U.S. Virgin Islands coasts. The CBRS now comprises 857 units encompassing approximately 3.1 million acres of coastal barrier lands and associated aquatic habitat. These areas are depicted on a series of maps entitled “John H. Chafee Coastal Barrier Resources System.”

The CBRS includes two types of units, System units and Otherwise Protected Areas (OPAs). System units generally comprise private lands that were relatively undeveloped at the time of their designation within the CBRS. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System units. OPAs generally comprise lands established under Federal, State, or local law or held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. OPAs are denoted with a "P" at the end of the unit number. The only Federal spending prohibition within OPAs is the prohibition on Federal flood insurance.

The Secretary of the Interior (Secretary), through the Service, is responsible for administering the CBRA, which includes maintaining the official maps of the CBRS; consulting with Federal agencies that propose to spend funds within the CBRS; preparing

draft maps that update and correct existing maps; and making recommendations to Congress regarding proposed changes to the CBRS. Aside from three minor exceptions, only Congress—through new legislation—can modify the maps of the CBRS to add or remove land. These exceptions include: (1) The CBRA 5-year review requirement, which considers only changes that have occurred to the CBRS by natural forces such as erosion and accretion; (2) voluntary additions to the CBRS by property owners; and (3) additions of excess Federal property to the CBRS. The proposed changes described in this notice, including any additions to and deletions from the CBRS, will become effective only if enacted by Congress through new legislation.

Proposed Changes to the John H. Chafee Coastal Barrier Resources System in Florida

The Service has prepared a comprehensively revised map for Gasparilla Island Units FL–70/FL–70P, dated January 10, 2012, in response to a request from the House of Representatives Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs (Subcommittee). Legislation was introduced in the 112th Congress (H.R. 2154) to replace the existing map for Gasparilla Island Unit FL–70P with a revised map. The Service testified before the Subcommittee on October 25, 2011, and did not take a position on H.R. 2154 because the Service had not yet conducted a comprehensive review of the area at the time. The Service receives numerous requests from property owners and other interested parties who seek to remove lands from the CBRS. Before the Service can make an informed recommendation to the Congress concerning whether a change to a CBRS unit is appropriate, the Service must conduct a comprehensive review of the

history of the CBRS unit in question. The Service has a large backlog of requests to conduct reviews of CBRS units. These reviews are time and resource intensive, and the Service attempts to conduct them on a first-in, first-out, basis to be fair to property owners who have been waiting the longest for their area to be reviewed and potentially remapped.

Below is a summary of the proposed changes depicted on the draft map for Units FL-70/FL-70P.

The Service's draft revised map for Units FL-70/FL-70P removes approximately 6 upland acres from the CBRS and adds approximately 1,759 acres to the CBRS (including 87 acres of upland and 1,672 acres of associated aquatic habitat). The Service's assessment of 2011 aerial imagery estimates that the draft map for Units FL-70/FL-70P removes from the CBRS a total of 27 structures, including 25 privately owned homes, 1 home owned by Lee County, and 1 restaurant. The Service's assessment of 2011 aerial imagery estimates that the draft map for Units FL-70/FL-70P adds to the CBRS a total of 5 structures, including 4 park-related structures (2 maintenance sheds, 1 bathhouse/restroom, and 1 chapel) and 1 structure owned by Florida Power and Light. The draft map also adds to the CBRS an operational lighthouse owned by the U.S. Coast Guard known as the Boca Grande Rear Range Light. The map makes progress towards fulfilling a mandate in the Coastal Barrier Resources Reauthorization Act of 2006 (Pub. L. 109-226) to modernize all CBRS maps.

The proposed Unit FL-70P boundary was adjusted to more precisely follow the boundaries of Gasparilla Island State Park; remove private lands that were not intended to be part of the OPA; and add lands that are appropriate for inclusion within the OPA. At

the northern end of Unit FL–70P, the boundaries were adjusted to add the adjacent Boca Grande Ballfield Site, owned by Lee County, and additional State park lands to Unit FL–70P. A new discrete segment is proposed for inclusion within Unit FL–70P to add lands owned by the Gasparilla Island Conservation and Improvement Association. This new discrete segment is located on a spit to the northeast of the State park and is connected to the main portion of Unit FL–70P by the proposed new System Unit FL–70. The draft map adds approximately 246 total acres to Unit FL–70P, including 42 acres of upland and 204 acres of associated aquatic habitat. The draft map removes approximately 6 upland acres from Unit FL–70P. The draft map also reclassifies 2 acres from OPA Unit FL–70P to System Unit FL–70, including 1 acre of upland and 1 acre of associated aquatic habitat.

Unit FL–70 is a proposed new System unit that contains undeveloped coastal barrier lands and associated aquatic habitat that are adjacent to or in the vicinity of Unit FL–70P. The proposed new unit contains parcels that are owned by Lee County, the Boca Bay Master Association, the U.S. Coast Guard, and Florida Power and Light. The Service’s assessment indicates that these lands meet the CBRA definition of an “undeveloped coastal barrier” (Section 12 of Pub. L. 101–591), but do not meet the definition of “otherwise protected” that was published by the Department of the Interior in the **Federal Register** on March 4, 1985 (50 FR 8701). Although an April 2011 Lee County Future Land Use Map classifies some of these areas as conservation lands and/or environmentally critical, the Service is not aware of compelling evidence of an intent on the part of the owners to dedicate these lands for conservation or public recreation (e.g., deed restriction, conservation easement, etc.). Therefore, the Lee County, Boca Bay

Master Association, U.S. Coast Guard, and Florida Power and Light parcels are proposed for inclusion within a new System unit, FL-70, instead of within the existing OPA.

CBRS areas generally include coastal barrier lands and the aquatic habitat associated with the coastal barrier. The draft map proposes the addition of aquatic habitat associated with Units FL-70/FL-70P. With the exception of the northeasternmost segment of Unit FL-70P, the associated open water sand-sharing area of Charlotte Harbor, Boca Grande, and the Gulf of Mexico is proposed for inclusion within System Unit FL-70. The open water sand-sharing area currently within OPA FL-70P (located along the Gulf of Mexico near the southern tip of Gasparilla Island) is proposed for reclassification from OPA FL-70P to System Unit FL-70. The Unit FL-70 boundary on the Charlotte Harbor side is drawn as a straight line approximately one mile landward of the farthest extent of the wetlands, which is consistent with established boundary delineation criteria (50 FR 8701). The Unit FL-70 boundary on the Gulf of Mexico side is open to include the entire sand-sharing system (normally defined by the 30-foot bathymetric contour), which is also consistent with established boundary delineation criteria (50 FR 8701, March 4, 1985).

The draft map adds approximately 1,513 total acres to Unit FL-70, including 45 acres of upland and 1,468 acres of associated aquatic habitat. The draft map also reclassifies 2 acres from OPA Unit FL-70P to System Unit FL-70 including 1 acre of upland and 1 acre of associated aquatic habitat.

Proposed Changes to the John H. Chafee Coastal Barrier Resources System in Rhode Island

The Service has prepared a comprehensively revised map dated September 30, 2009, for Sachuest Point Unit RI-04P, Easton Beach Unit RI-05P, Almy Pond Unit RI-06, and Hazards Beach Unit RI-07. The Service received a request in 2004 to review CBRS Unit RI-05P. When the Service finds a technical mapping error that warrants a change in one part of a CBRS map, we review all adjacent areas on the map to ensure that the entire map is accurate. This comprehensive approach to map revisions treats all landowners who may be affected equitably, and it also ensures that the Service and Congress will not have to revisit the same map in the future. In accordance with this comprehensive mapping approach, the Service reviewed and revised the boundaries of Units RI-04P, RI-06, and RI-07, which are located on the same map panel as Unit RI-05P.

Legislation was introduced in the 111th Congress (H.R. 5331) that would replace the existing map for Units RI-04P, RI-05P, RI-06, and RI-07, with the revised map dated September 30, 2009. The Service testified in support of H.R. 5331 at a hearing before the Subcommittee on July 27, 2010. The 111th Congress did not enact the legislation into law. Legislation was introduced in the 112th Congress (H.R. 2027 and S. 1296) that would replace the existing map for this area with the revised map dated September 30, 2009. The Subcommittee held a hearing on H.R. 2027 on October 25, 2011, and the Service testified in support of the legislation. On February 1, 2012, the Senate passed S. 1296.

Below is a summary of the proposed changes depicted on the draft map for Units RI-04P, RI-05P, RI-06, and RI-07.

The Service's draft revised map for Units RI-04P, RI-05P, RI-06, and RI-07, removes approximately 22 acres (including 20 acres of upland and 2 acres of associated aquatic habitat) from the CBRS and adds approximately 67 acres (including 34 acres of upland and 33 acres of associated aquatic habitat) to the CBRS. The Service's assessment of 2010 aerial imagery estimates that the draft map for Units RI-04P, RI-05P, RI-06, and RI-07 removes a total of 8 structures, including 7 homes and 1 pump house and adds no structures to the CBRS. The map makes progress towards fulfilling a mandate in the Coastal Barrier Resources Reauthorization Act of 2006 (Pub. L. 109-226) to modernize all CBRS maps.

The proposed Unit RI-04P boundary was adjusted to include areas that are appropriate for inclusion within the OPA, including portions of the lands owned by the Norman Bird Sanctuary, the City of Newport Water Department, and the Town of Middletown (Second Beach). The draft map adds approximately 24 total acres to Unit RI-04P, including 14 acres of upland and 10 acres of associated aquatic habitat. The draft map removes 1 upland acre from Unit RI-04P.

The proposed Unit RI-05P boundary was adjusted to more precisely follow the boundaries of Easton Beach and Easton Pond, which are owned by the City of Newport; add public beach and park lands owned by the Town of Middletown that are appropriate for inclusion within the OPA; and remove private lands that were not intended to be part of the OPA. The draft map adds approximately 10 acres to Unit RI-05P, including 3 acres of upland and 7 acres of associated aquatic habitat. The draft map removes

approximately 15 total acres from Unit RI-05P, including 14 acres of upland and 1 acre of associated aquatic habitat.

The proposed Unit RI-06 boundary was adjusted to add the remaining undeveloped portions of the privately owned Bailey's Beach; more precisely follow the wetland/upland interface around Almy Pond; and remove lands that were not intended to be part of the unit. The draft map adds approximately 7 total acres to Unit RI-06, including 3 acres of upland and 4 acres of associated aquatic habitat. The draft map removes a total of approximately 5 upland acres from Unit RI-06.

The proposed Unit RI-07 boundary was adjusted to include all of the privately owned Gooseberry Beach and most of the privately owned Hazards Beach; more precisely follow the wetland/upland interface around Lily Pond; and include a parcel that the Audubon Society of Rhode Island has voluntarily requested be added to the CBRS as a System unit. The offshore boundaries have been lengthened to clarify that Gooseberry Island is included in the unit. The draft map adds approximately 26 total acres to Unit RI-07, including 14 acres of upland and 12 acres of associated aquatic habitat. The draft map removes 1 acre of associated aquatic habitat from Unit RI-07.

Proposed Additions to the John H. Chafee Coastal Barrier Resources System

The draft revised maps for Units FL-70, FL-70P, RI-04P, RI-05P, RI-06, and RI-07 propose additions to the CBRS that are consistent with a directive in Section 4 of Pub. L. 109-226 concerning recommendations for expansion of the CBRS. The proposed boundaries depicted on the draft maps for Florida and Rhode Island are based upon the best data available to the Service at the time the draft maps were created. Our

assessment indicated that any new areas proposed for addition to the CBRS were relatively undeveloped at the time the draft maps were created.

Section 2 of the Coastal Barrier Resources Reauthorization Act of 2000 (Pub. L. 106–514) codified the following guidelines for what the Secretary shall consider when making recommendations to the Congress regarding the addition of any area to the CBRS and in determining whether, at the time of inclusion of a System unit within the CBRS, a coastal barrier is undeveloped: (1) The density of development is less than one structure per 5 acres of land above mean high tide; and (2) there is existing infrastructure consisting of a road, with a reinforced road bed, to each lot or building site in the area; a wastewater disposal system sufficient to serve each lot or building site in the area; electric service for each lot or building site in the area; and a fresh water supply for each lot or building site in the area.

If, upon review of the draft maps for Florida and Rhode Island, interested parties find that any areas proposed for addition to the CBRS currently exceed the development threshold established by Section 2 of Pub. L. 106–514, they may submit supporting documentation of such development to the Service during this public comment period. For any areas proposed for addition to the CBRS on the draft map, we will consider the density of development and level of infrastructure on the ground as of the close of the comment period on the date listed in the DATES section of this notice.

Request for Comments

We invite the public to review and comment on the draft revised map dated January 10, 2012, for CBRS Units FL–70/FL–70P and the draft revised map dated

September 30, 2009, for CBRS Units RI-04P, RI-05P, RI-06, and RI-07. The Service is specifically notifying the following stakeholders concerning the availability of the draft revised maps: the Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; the members of the Senate and House of Representatives for the potentially affected areas; the Governors of Florida and Rhode Island; Federal, State, and local officials; and nongovernmental organizations.

Interested parties may submit written comments and accompanying data to the individual and location identified in the ADDRESSES section above. The Service will also accept digital Geographic Information System (GIS) data files that are accompanied by written comments. Comments regarding specific units should reference the appropriate CBRS unit number and unit name. We must receive comments on or before the date listed in the DATES section of this document.

Following the close of the comment period on the date listed in the DATES section of this document, we will review all comments received on the draft maps and we will make adjustments to the draft maps, as appropriate, based on information received through public comments, updated aerial imagery, CBRA criteria, and objective mapping protocols. We will then prepare final recommended maps to be submitted to Congress. The final recommended maps will become effective only if they are enacted by Congress through new legislation.

Availability of Draft Maps and Related Information

The draft maps, summaries of the proposed boundary changes, and digital

boundary data can be accessed and downloaded from the Service's Internet site:

<http://www.fws.gov/CBRA/>. The digital boundary data are available in shapefile format for reference purposes only. The Service is not responsible for any misuse or misinterpretation of the digital boundary data.

Interested parties may also contact the Service individual identified in the FOR FURTHER INFORMATION CONTACT section above to make arrangements to view the draft maps at the Service's Washington Office. In the past, draft CBRS maps were also made available for public viewing at the appropriate Service regional and field offices. Because most interested parties now access the draft maps via the Internet, the Service is no longer making the draft maps available for public viewing at its regional and field offices. Interested parties who are unable to access the draft maps via the Internet or at the Service's Washington Office may contact the Service individual identified in the FOR FURTHER INFORMATION CONTACT section above, and reasonable accommodations will be made to ensure the public's ability to view the draft maps.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Date: February 16, 2012

Bryan Arroyo,

Assistant Director for Fisheries and Habitat Conservation.

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